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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: BCS - 175704

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 20, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on August 16, 2016, by telephone.

The issue for determination is whether the respondent correctly discontinued the petitioner's adult BadgerCare Plus (BCP) eligibility.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Katherine May  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Prior to July 1, 2016, the petitioner was certified for BCP; her assistance group included a minor child for whom petitioner was providing foster care. The minor child returned to the home of her

mother in December, 2015, though the respondent did not learn of the child's change in placement until May of 2016.

3. On May 20, 2016, the respondent issued a notice to petitioner indicating that her BCP benefits would be discontinued as of July 1, 2016 because she was not caring for a minor child and because her assets and income exceed program limits.
4. On June 17, 2016, the respondent issued a notice to petitioner indicating that her BCP benefits application for July 1, 2016, was denied due to assets and income exceeding program limits.
5. The petitioner's countable income from Social Security and rental of a condominium totals \$1,202.50 monthly, and exceeds the BCP monthly income limit of \$972.50.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$990.00 monthly for a household of one, and \$1,335.00 for a household of two persons in 2016. *Id.*, § 50.1.

The Department has calculated a gross income amount for the petitioner of \$1,202.50, based on Social Security verification and the petitioner's rental income less her qualifying deductions related thereto. From gross income, the Department is allowed to subtract only those income tax deductions listed on lines #23 - #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). The petitioner did not identify any of these adjusted gross income deductions as being applicable here.

The petitioner's income from Social Security alone will disqualify her from BCP, now that she is an assistance group of one. The respondent also noted that petitioner's assets exceed general Medicaid eligibility concerning assets (\$2,000.00 limit). The petitioner argued that her bank account seems large, since monies kept in that account is intended for home maintenance. She stated that the account is held jointly with her daughter. However, there is no indication that she does not have access to these funds, nor was any proof provided regarding how the account is held.

### **CONCLUSIONS OF LAW**

1. The petitioner's household income and assets exceed the relevant limit for BCP eligibility.
2. The Department correctly discontinued the petitioner's BCP.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 10th day of October, 2016

\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 10, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability